

**E. PRE HEARING CONFERENCE****CLARIFYING INFORMATION**

1. The pre-hearing conference (PHC) is an essential step in the hearing process. This ensures that hearings are held only in cases that cannot be resolved under current policy.
2. The PHC is not designed to take the place of a hearing. It is an opportunity for the client and/or their representative and the FHC to clarify the issue for hearing, correct errors and make agreements.
3. The PHC does not need to be lengthy or formal. A PHC can be held by phone. The client has a right to have their PHC in person or to decline a PHC.
4. The ALJ can order that a PHC be held. See **WAC 388-08-431** for procedures governing PHC's ordered by the ALJ.
5. Fair Hearing are "de novo" proceedings [WAC 388-08-425(1)(a)]. This means that the ALJ must use all of the available evidence when making their decision, not just the evidence considered by the FSS in the original decision.

**FHC RESPONSIBILITIES**

1. Contact the client for a PHC as soon as possible after the request for hearing.
  - a. Attempt telephone contact immediately; or
  - b. Use the DSHS 02-527(x) Prehearing Conference Letter, ACES letter FHC2 Prehearing Conference Notification or local CSO letter to schedule prehearing conferences.
2. Notify all staff who are scheduled to participate of the date and time of the PHC.
3. Arrange for interpreter services or other accommodation as required.
4. Document on the ACES narrative if the client declines a PHC.

**FHC PROCEDURES**

1. The FHC should be prepared to meet at least once, either in person or by telephone, with the client and/or the representative before the hearing. Additional contacts should be scheduled as needed.
2. When conducting a prehearing conference:
  - a. Attempt to identify and define the issues
  - b. Explain the facts on which the decision is based
  - c. Discuss the result the client expects from the fair hearing.
  - d. Explain the client's right to representation and the local contact for free legal services.
  - e. Discuss the rules which the department relied on when making the decision the client is appealing. Make copies of the cited rules available on request.
  - f. Review the evidence that the department relied on and how it relates to the client's situation.
  - g. Attempt to resolve areas of factual dispute by reviewing the case record, ACES record or other documentation.
  - h. Allow the client an opportunity to provide additional information and/or documents that were not considered in the original decision.
  - i. Correct any CSO errors that are identified.
  - j. Coordinate with Regional staff for clarification of regulations, policies or procedures as needed.
  - k. Review alternative methods for helping the client, including community resources and the possibility of an Exception to Rule.
  - l. Review the hearing procedures, including testimony, swearing of witnesses and presentation of evidence.

- m. Answer any general questions the client has regarding the hearing process
  - n. Submit new or additional evidence provided by the appellant to the original decision maker or their supervisor for an amended decision if appropriate. (See WAC 388-406-0060(3) for application denials.)
3. If a resolution is reached and the client wishes to withdraw the hearing request:
- a. Have the client complete a DSHS 02-528(X) Withdrawal of Fair Hearing which specifies the reason for the withdrawal and any agreements made by the FHC or other CSO staff which resulted in the withdrawal.
  - b. For verbal withdrawals:
    - (1) Have the client complete a DSHS 02-528(X) as in (a) above or send the form to the client with instructions to complete as in (a) above.
    - (2) Notify the OAH immediately if the written withdrawal will not be received before the hearing is scheduled.
4. Forward the original copy of the withdrawal to the OAH. Give one copy to the client and put one copy in the CSO hearing file.